

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BENJAMIN MESSINGER,	:	ECF
	:	13 Civ. 2444 (AJN)(MHD)
Plaintiff,	:	
- against -	:	<b>DECLARATION OF FREDERIC</b>
	:	<b>L. LIEBERMAN PURSUANT TO</b>
JPMORGAN CHASE BANK, N.A.,	:	<b>28 U.S.C. § 1746 IN SUPPORT</b>
	:	<b>OF DEFENDANT'S MOTION</b>
Defendant.	:	<b>TO DISMISS PURSUANT TO</b>
	:	<b><u>FED. R. CIV. P. 12(b)</u></b>

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FREDERIC L. LIEBERMAN, under the penalties of perjury, declares:

1. I am an Assistant General Counsel in the JPMorgan Chase Legal & Compliance Department, attorneys of record for Defendant JPMorgan Chase Bank, N.A. (the "Bank").
2. I am familiar based on personal knowledge, information and belief and/or the Bank's records, with the facts and circumstances hereinafter set forth. I make this affidavit in support of Defendant's motion to dismiss Plaintiff's Complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.
3. On information and belief, on or about April 11, 2013, Plaintiff commenced the within action by filing his Complaint with the Clerk of the United States District Court for the Southern District of New York. The Complaint alleges that the Bank, Plaintiff's former employer, terminated his employment on account of his age and in retaliation for his earlier complaints about age discrimination, and defamed him by making statements regarding his termination in a Form U-5 filed with the Financial Industry Regulatory Authority. True and correct copies of the Summons and Complaint are annexed hereto as Exhibit "1".

4. With Defendant's consent, Defendant was served by email with copies of the Summons and Complaint on April 12, 2013.

5. Plaintiff's U-5 defamation claim stems from the fact that he possesses Series 7 and 63 securities industry licenses. As such, when employed by a firm in a position in which Plaintiff could engage in securities transactions, Plaintiff was required by Financial Industry Regulatory Authority ("FINRA") regulations to submit to FINRA a Form U4 ("Uniform Application for Securities Industry Registration or Transfer") at the commencement of his employment with the Bank. Since the Bank is not a member of FINRA, Plaintiff's licenses were registered through the Bank's affiliate, Chase Investment Services Corp. ("CISC"). A true and correct copy of Plaintiff's Form U-4, signed by Plaintiff and dated May 8, 2009, is annexed hereto as Exhibit "2".

6. Then, at the termination of his employment with the Bank, CISC was required by FINRA regulations to file a Form U5 ("Uniform Termination Notice for Securities Industry Registration"). When a licensed employee is discharged, the Form U5 requires that a Termination Explanation be provided. CISC filed a Form U5, indicating that Plaintiff was discharged from his employment and providing an explanation for that action. A true and correct copy of Plaintiff's Form U-5, dated August 23, 2012, is annexed hereto as Exhibit "3".

**WHEREFORE**, Defendant respectfully requests that the Court (1) grant Defendant's motion to dismiss Plaintiff's Complaint with prejudice; (2) grant Defendant its costs and attorneys' fees; and (3) grant such other and further relief as this Court deems just and proper.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on  
May 3, 2013.



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FREDERIC L. LIEBERMAN